IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application NO.1940 of 2006

Tata Motors Ltd. Applicant
Vs.
M/s.Ashoka Tubewell & Engineering
Corporation & ors. Respondents

Mr.Subodh Desai for applicant.
Mr.D.R.More, APP for State.

CORAM: B.H.MARLAPALLE, J.

July 23, 2007.

P.C.

1. Heard Mr.Desai, the learned counsel for the applicant - Company. This is an application seeking special leave to appeal under Section 378(4) of Cr.P.C.

2. Four different cheques between the period from 15/10/1996 to 9/12/1996 for an amount of Rs.1,23,500/- each came to be dishonoured as per the Bank memos dated 19/12/1996 which were received by the Company on 28/12/1996. Legal notice was given to the accused which was received by him on 18/1/1997 and thereafter Complaint No.233/M of 1997 came to be filed. It was re-registered subsequently as 500/S/1997, then as 430/S/1998 and finally as Case No.2678/S/2002. The said complaint came to be

dismissed on the ground that the conduct of the complainant clearly indicated that he was not interested in prosecuting the case and, therefore, the the complaint was dismissed under Section 256(1) of Cr.P.C. by the impugned order dated 3/3/2006.

3. As per Mr.Desai, there were settlement talks between the parties and the recovery of the petitioner from the accused was also referred to the Lok Adalat. However, a certified copy of the Roznama from the trial Court's file clearly shows that after about six years the complainant filed his affidavit by way of examination-in-chief on 15th September 2003. The complaint was adjourned for cross-examination from time to time and finally on 3/3/2006 it was dismissed and the accused came to be acquitted. The learned Judge noted that inspite of the presence of the Advocate for the applicant on 3/3/2006, no application for exemption or adjournment was filed. Certified copy of the Roznama also supports the findings of the trial Court that the complainant was lethargic and did not take due steps to remain present before the Court for being cross-examined. The complaint was filed on behalf of M/s. Tata Motors Ltd. which, as is well known, has

no dearth of appropriate resources to ensure that the cases are filed in time and evidence also is adduced before the subordinate Courts on the dates fixed. For almost three years after the examination-in-chief by way of affidavit, the complainant did not remain present for cross-examination and, therefore, the trial Court had no option but to dismiss the complaint and acquit the accused.

4. The reasoning set out by the trial Court could neither be called as perverse or grossly erroneous and hence there is no case made out to grant special leave to appeal under Section 378(4) of Cr.P.C. The application is hereby rejected.

(B.H.MARL